REMARKS

Claims 1, 8, 14-17, and 19-30 were pending. Claims 1 and 8 have been amended Support for these amendments may be found in the Specification at least at page 25, lines 18-21. No claims have been added or cancelled. Therefore claims 1, 8, 14-17, and 19-30 remain pending in the application.

Claim Rejections

Claims 1, 8, 14, 16, 17, 20, 22, 25, 26, 28 and 29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,734,589 (hereinafter "Kostreski"). Claims 15, 23, 24, and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kostreksi, in view of U.S. Patent 5,903,262 (hereinafter "Ichihashi"). Claims 19 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kostreski in view of U.S. Patent Publication 2004/0221307 (hereinafter "Arai"). Finally, claim 21 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kostreski in view of U.S. Patent No. 6,208,335 (hereinafter "Gordon"). Applicant respectfully traverses the above rejections and requests reconsideration in view of the following discussion.

Applicant has amended independent claims 1 and 8 to further clarify the nature of the presently claimed invention. For example, claim 1 now recites, in relevant part

"routing said navigation event to a first surfer application, in response to determining the first surfer application is available or the decoder is under control of the first surfer application, wherein the first surfer application is started in a transparent mode by default;" (Emphasis added).

In a previous Office Action, in rejecting claim 21, the Examiner suggested that

"Gordon teaches the surfer application has a transparent mode of running. Gordon teaches a navigator menu structure that is divided up into a video layer, a graphics layer and a control layer. The graphics comprises an OSD overlay, which is displayed over the video layer. As such the OSD layer can be used to emphasize and de-emphasize the underlying video. In

particular, the graphics can be transparent (col. 3, lines 20-30; col. 8, lines 8-12)."

However, Gordon's OSD overlay merely permits a region of the image to be made transparent after the region is selected. More specifically Gordon teaches

"Alternatively, the OSD graphics may produce an opaque overlay that is made transparent (or partially transparent) when the region containing the overlay, or some other region, is selected. As such, the underlying video that lies beneath the overlay is revealed. Such a mask and reveal process enables the video to contain regions of imagery that are revealed upon selection, where these regions provide the user with recognizable and enjoyable information generally relating to the selection that was made or generally providing an enjoyable transition to the next screen. Furthermore, the mask and reveal process can be used to periodically mask and reveal certain imagery without the subscriber selecting any regions. This function may be used to merely provide a graphical enhancement to the display, i.e., emphasis and de-emphasis of particular menu regions." (Gordon, col. 8, lines 20-30).

As may be seen from the above, Gordon's mask and reveal process enables the video to contain regions of imagery that are revealed upon selection. Alternatively, Gordon teaches that the mask and reveal process can be used to periodically mask and reveal certain imagery without the subscriber selecting any regions. Therefore, Gordon teaches that the user must either select the region to make it transparent, in which case it is not transparent by default, or only a portion of the imagery is made transparent without selection, and only periodically, in which case, the OSD is not in "transparent mode by default" as recited. Accordingly, Applicant finds no teaching or suggestion in Gordon that "the first surfer application is started in a transparent mode by default," as is recited in amended claim 1. For at least the above reasons, Applicant submits claim 1 is patentably distinguishable from the cited art, taken either singly or in combination, as is claim 8 for similar reasons. The dependent claims are likewise patentably distinguishable for at least the above reasons.

Also, in response to Applicants arguments that Kostreski fails to teach a "built-in banner" as is recited in claim 1, the Examiner suggests Kostreski teaches

"an improved digital entertainment terminal (DET) that has the functionality of a conventional terminal device in addition to the novel feature of offering 'surfer applications' from different video information service providers (VIP). Kostreski et al. ('Kostreski') clearly teaches that 'a need exists in the art for set-top terminal devices... that are readily adaptable to perform a variety of related functionalities as needed to facilitate a range of audio/video and interactive services offered by a large number of video information providers' (col. 3, lines 46-57). Conventional terminal devices are commonly known to have a 'limited set of functionalities constrained by the hard wired programming (i.e. 'built-in') of the internal micro-processor controlled device (col. 1, lines 18-21).' Kostreski also teaches '[t]he precise interpretation of specific command signals can vary based on the downloaded applications [programming and/or operating system software stored in the system memory (col. 11, lines 32-36).' The user has the option of downloading VIP application software (col. 15, line 58-col. 16, line 5 –'[i]f interactivity with a particular VIP is desired, the level 1 gateway would be accessed...'). It is apparent from Kostreski that when a user accesses a particular VIP's software and at least a portion of the software is stored in the DET memory, it is then that the DET uses that information to select program services in response to user inputs (col. 27, lines 26-34). Therefore, Kostreski teaches a 'built-in banner' as recited in claim 1."

However, Applicant submits the above discussion merely illustrates that Kostreski's DET may have some built-in functionality, not that it has a built-in banner. Furthermore, Kostreski suggests that when it is determined that no surfer application is available, rather than using a built-in banner, a new surfer application is sought. More specifically, Kostreski teaches

"If the navigation program is stored in the DET, the pressing of the "GUIDE" button begins execution of the guide program, which directs the DET to download any necessary data, and thereafter provides a menu for the user. If the navigation program is not stored in the DET, then the pressing of the "GUIDE" button initiates a routine in the operating system to go to the appropriate control channel (e.g., channel 01, timeslot 0) to access, capture and execute the navigation software.

Once at least the program mapping portion of the software and/or data are stored in DET memory, the DET uses that information to select program services in response to user inputs." (Kostreski, col. 27, lines 22-34, emphasis added).

What should be appreciated from the above is that in contrast to the recited "routing said navigation event to the built-in banner, in response to determining no surfer application is available," in the absence of an already loaded navigation program, Kostreski's system goes to the appropriate control channel to access, capture, and execute navigation software. Therefore, whether or not Kostreski's system includes a built-in banner, Kosterski neither teaches nor suggests "routing said navigation event to the built-in banner, in response to determining no surfer application is available and the decoder is not under control of a surfer application," as is recited in claim 1.

For at least the above additional reasons, Applicant submits claim 1 is patentably distinguishable from the cited art, taken either singly or in combination, as is claim 8 for similar reasons. The dependent claims are likewise patentably distinguishable for at least the above reasons.

In addition, in response to Applicants arguments that Kostreski fails to teach "downloading a plurality of surfer applications within corresponding surfer caches, and selecting one of said downloaded surfer applications," as is recited in claim 20, the Examiner suggests Kostreski teaches "downloading necessary MPEG decoding data for all of a VIP's broadcast programs as part of the application software downloaded and stored in the RAM as part of the navigation software/database (col. 31, lines 39-49). However, downloading MPEG decoding data is not equivalent to the recited downloading a plurality of surfer applications. In Kostreski, each VIP is associated with a particular navigation program. Each navigation program may require MPEG decoding data for the broadcast programs in the associated VIP. Nowhere does Kostreski suggest that downloading the MPEG decoding data includes downloading a navigation programs and caching them. Accordingly, Applicant finds no teaching or suggestion in Kostreski of "downloading a plurality of surfer applications within corresponding surfer caches, and selecting one of said downloaded surfer applications," as is recited in claim 20. Applicant submits neither are such features found in the remaining references.

Accordingly, claim 20 is patentably distinguishable from the cited art, taken either singly or in combination, as are claims 28 and 29 for similar reasons.

In view of the above, Applicant believes all claims to be in condition for allowance.

CONCLUSION

Applicant submits the application is in condition for allowance, and notice to that effect is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above-referenced application from becoming abandoned, Applicant(s) hereby petition for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5266-05900/RDR.

Respectfully submitted,

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